

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANIEL O'NEILL,

Plaintiff,

v.

Civ. No. 11-858 JB/GBW

LAWRENCE JARAMILLO,
MANUEL PACHECO,
DWANE SANTISTEVAN,
and MICHAEL GATTI.

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR A CHANGE OF VENUE

This matter comes before the Court on Plaintiff's Motion for a Change of Venue.

Doc. 35. The Court finds that this motion merely duplicates Plaintiff's earlier recusal motion. *Doc. 22.* The Court denied Plaintiff's recusal motion. *Doc. 23.* The Court will deny the motion for a change of venue for the same reasons that it denied the recusal motion.

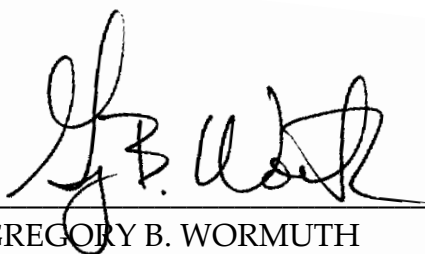
Plaintiff filed his complaint in this action September 22, 2011. *Doc. 1.* The Court has denied Plaintiff's motions for the Court to appoint counsel, award a default judgment, and recuse the assigned Magistrate Judge. *See docs. 5, 12, 23.* The Court has granted his motions to proceed *in forma pauperis* and amend his complaint, and has granted in part and denied in part his motion to withdraw claims against certain defendants. *See docs. 15, 20, 21, 33, 34, 40.* The Court has not, however, addressed the

merits of Plaintiff's claims. Indeed, due to problems effectuating service of process, the Court has had to order service of process repeatedly; process has only recently been properly served on two of the defendants, and remains unserved on the third. *Docs. 23, 40, 46, 47, 48.*

In ruling on Plaintiff's recusal motion, the Court found that "Plaintiff offer[ed] only] conclusory statements alleging that 'political influence' [was] the basis for" the Magistrate Judge's denial of certain of Plaintiff's motions. *Doc. 23* at 2. The Court proceeded to analyze and deny Plaintiff's recusal motion under the two relevant federal statutes governing the recusal of a federal judge, 28 U.S.C. §§ 144 and 455. *Doc. 23.*

Reviewing Plaintiff's motion for a change of venue, the Court finds that it merely duplicates the earlier recusal motion and offers in support of the motion for a change of venue only conclusory allegations that the Magistrate Judge holds a bias against Plaintiff, rather than offering reasoned arguments that set forth relevant facts and argue the significance of those facts. Plaintiff does not make any allegations relating to venue. The Court will therefore construe this motion as a second recusal motion rather than a motion for change of venue. Furthermore, as the motion offers no more than the same conclusory allegations in support of this recusal motion as it did in support of the previous recusal motion, the Court will deny the motion. *See doc. 23.*

Wherefore, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Change Venue, *doc. 35*, is DENIED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE